

### ***REMARKS/ARGUMENTS***

Claims 40 - 42 and 44 are currently pending in this application. Claims 1-18 and 30-32 stand withdrawn. Claims 19-29, 33-39, 43 and 45-47 are cancelled. Claim 40 has been amended. Reconsideration of the rejection of this application in view of the above amendments and the following remarks is respectfully requested.

#### ***Claims Objections - 35 USC §102***

Claims 40-42 and 44 were rejected under 35 USC §102(b) as being anticipated by Matthai (5,702,415). Reconsideration of this rejection in view of the newly amended claims is respectfully requested.

Claim 40, the only independent claim pending in the present application, now recites a blade-guard assembly for use in a rotary trimmer comprising a cutting blade having a plurality of apertures. A hub is secured to the cutting blade via the plurality of apertures. A blade guard is secured to the hub and forms a blade-guard assembly with the cutting blade. The blade guard covers the cutting blade such that at least a portion of the cutting blade is exposed for cutting. The blade guard, cutting blade and the hub are a unitary structure so that the blade-guard assembly is removable from, and placeable on, the rotary trimmer as a unit without the cutting blade being disconnected from the hub and without the hub being disconnected from the blade guard.

The claim clearly sets forth that the blade-guard assembly is a unitary structure comprising the blade guard, the hub and the cutting blade that together form a unit. This unit is removable from, and placeable on, the rotary trimmer without the cutting blade being disconnected from the blade guard or hub.

The Examiner has cited the Matthai et al. reference in connection with claim 40 as showing a rotary trimmer comprising a cutting blade 9 having a

plurality of apertures, a hub (12, 81) connected to the cutting blade via the plurality of apertures and a blade guard 86 secured to the hub.

As stated in *Therasense, Inc. v. Becton, Dickinson & Co.*, (593 F.3d 1325, 93 USPQ 2D1481 (Fed. Cir. 2010)):

The way in which the elements are arranged or combined in the claim must itself be disclosed, either expressly or inherently, in an anticipatory reference. “Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim.” *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir.1983). The requirement that the prior art elements themselves be “arranged as in the claim” means that claims cannot be “treated...as mere catalogs of separate parts, in disregard of the part-to-part relationships set forth in the claims and that give the claims their meaning.” *Lindemann Maschinenfabrik GMBH v. Am. Hoist & Derrick Co.*, 730 F.2d 1452, 1459 (Fed. Cir.1984). “[U]nless a reference discloses within the four corners of the document not only all of the limitations claimed but also all of the limitations *arranged or combined in the same way as recited in the claim*, it cannot be said to prove prior invention of the thing claimed and, thus, cannot anticipate under 35 U.S.C. §102. “*Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1371 (Fed. Cir. 2008) (emphasis added).

It is submitted that Matthai et al. reference does not satisfy the criteria for anticipation as set forth in the above citation. The Matthai et al. reference does not disclose all of the claimed invention arranged as in the claim.

In the arrangement shown in the Matthai et al. reference, the uncovered cutting blade is inserted by itself between a cap 80 and the top of a cup washer

60. After the blade is properly positioned, a hold down screw is tightened to hold the blade in place. During the entire installation process, as well as the removal process, the blade is not connected to any type of blade guard.

The structure 80 in the device of the Matthai et al. reference, which the Examiner considers to be the blade guard, is a cap that is removably secured to the top wall of the housing 13 of the hand piece before the installation of the blade. This cap 80 is not connected in any way to the blade that would enable it to be removed from, and to be placed on, the hand piece as a unit with the blade. The cap remains attached to the hand piece during the removal of and installation of the blade.

The Examiner considers the structure indicated by the reference numerals 12, 81 of the Matthai et al reference to be equivalent to the hub that is set forth in the claims. The structure indicated by reference numeral 12 is a chuck that is mounted in the hand piece. Reference numeral 81 refers to the top wall of the housing. Neither of these structures is attached to a blade or blade guard so that they are removable with the blade when the blade is removed.

Claim 40 specifically requires that the cutting blade be secured to the hub and that the hub in turn is connected to the blade guard forming a blade-guard assembly that is removable from and placeable on the rotary trimmer as a unit. The claim also requires that the blade-guard assembly is removable from and placeable on the rotary trimmer as a unit without the cutting blade being disconnected from the hub and without the hub being disconnected from the blade guard. Such an arrangement is impossible in the Matthai et al. reference. What the Examiner considers to be the hub and blade guard in the device of the Matthai et al. reference remain attached to the tool when a new blade is removed and inserted. The "hub" and "blade guard" of the device of the Matthai et al references are disconnected from the blade when the blade is removed and installed.

As the Matthai et al. reference does not show or disclose all the elements of the claimed invention arranged as set forth in claim 40 that reference cannot be said to anticipate the claim. Accordingly, claim 40 and its dependent claims 41, 42 and 44 are patentable over the Matthai et al. reference.

Claims 40-42 were rejected under 35 U.S.C. §102(b) as being anticipated by Schulz et al. (5,765,289). Reconsideration of this rejection in view of the newly submitted claims is respectfully requested.

The Examiner maintains that the Schulz et al. reference teaches a blade guard assembly for a rotary trimmer comprising a cutting blade 22 having a plurality of apertures, a hub 32, and blade guard 42 secured to the hub and forming a blade guard assembly. The Examiner maintains that the three small U-shaped "apertures" on the circumference of the big central aperture are the same as the apertures referred to in the claim.

In the Shulz et al device, the blade is attached to the head 16 of the cutter 10 by means of a headed shaft 32 that extends through the guard 42, cutting blade 22 and an aperture in the head 16 of the cutter 10. The headed shaft is retained in place by a retainer nut 38. As can clearly be seen in Fig. 5 of the Shulz et al. reference, in order for the blade to be removed, the retainer nut 38 must be removed from the shaft 32, the shaft 32 and guard removed from the body of the cutter 16 and then the blade removed by itself. There is no disclosure of a blade, hub and blade guard being removable from, and replaceable on, the cutter as a unit to change the blade. The blade guard and shaft of the Shulz et al. device are not meant to be replaceable as they are an integral part of the cutter.

In the Shulz et al. reference, what is considered to be the blade guard, hub and blade are not removable from, and placeable on, the cutter as a unitary structure without the blade being disconnected from the hub and without the hub being disconnected from the blade guard. As shown in Fig. 5, when the shaft 32

is removed from the cutter, the blade 24 is disconnected from the guard 42 and hub (shaft 32).

Additionally, what the Examiner considers to be a plurality of apertures are merely part of the shape of the single central aperture. Thus, there is not a plurality of apertures as claimed. In addition, the U shaped portion of the central aperture does not cooperate in anyway with the shaft (hub) as claimed.

As the Schulz et al. reference does not show or disclose all the elements of the claimed invention arranged as in claim 40, this reference does not meet the criteria for anticipation as set forth in *Therasense, Inc.* quoted above and cannot be held to anticipate the claim. Accordingly, claim 40, and its dependent claims 41 and 42 are patentable over the Schulz et al. reference.

The Examiner, in responding to Applicant's arguments made in the previous office action, stated that claim 40 did not recite that the unitary structures are removable from and placeable on the rotary trimmer as a unit without the cutting blade being disconnected from the blade guard or hub. Claim 40 has been amended to positively state that the blade assembly is removable as a unit without the cutting blade being disconnected from the hub and without the hub being disconnected from the blade guard. The Examiner considered that the term "unitary structure" is very broad and does not describe how the guard blade forms a unit. Claim 40 is specific as to the fact that the hub is connected to the cutting blade and the blade guard is secured to the hub to form the blade-guard assembly. Claim 40 further states that the blade-guard assembly is removable from and placeable on, the rotary trimmer without the cutting blade being disconnected from the hub and without the hub being disconnected from the blade guard. It is submitted that with this language, the term "unitary structure", as it applies to the present invention is specific as to how the blade guard and blade form a unit and is not shown in the prior art.

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### **CONCLUSION**

In view of the above amendments and remarks, it is respectfully submitted that the claims now pending in this application, patentably define over the prior art taken alone or in any possible combination. Favorable consideration of the claims now in the case is earnestly solicited.

Respectfully Submitted,

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